

## SENATE BILL NO. 327

INTRODUCED BY S. DOHERTY, LINDEEN, B. THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT RESTRICTING AGENCY AND POLITICAL SUBDIVISION COMPETITION WITH ~~FOR-PROFIT~~ PRIVATE INTERNET SERVICES PROVIDERS; PROVIDING THAT AN AGENCY OR POLITICAL SUBDIVISION MAY PROVIDE INTERNET SERVICES IF NO ~~FOR-PROFIT~~ PRIVATE INTERNET SERVICES PROVIDER IS AVAILABLE, THE AGENCY OR POLITICAL SUBDIVISION ALREADY PROVIDES SERVICES, OR THE AGENCY OR POLITICAL SUBDIVISION OFFERS ADVANCED SERVICES THAT ARE UNAVAILABLE FROM A PRIVATE PROVIDER; REQUIRING THAT ~~FOR-PROFIT~~ PRIVATE INTERNET SERVICES PROVIDERS INFORM AN AGENCY OR POLITICAL SUBDIVISION OF THE INTENT TO OFFER INTERNET SERVICES; ENCOURAGING AGENCIES AND POLITICAL SUBDIVISIONS TO PUBLICLY ANNOUNCE THE NEED FOR INTERNET SERVICES; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Statement of purpose -- policy.** (1) The legislature recognizes that access to affordable, high-speed internet services is critical to the state's economic future and that the planning, development, and delivery of quality internet services should be a coordinated effort among state government, local governments, and private enterprise.

(2) It is the policy of this state to:

(a) recognize that private sector enterprises engaged in the delivery of internet access and related services should have an opportunity to provide those services without undue interference or competition from the state or its political subdivisions; and

(b) encourage agencies and political subdivisions to publicly announce requirements for internet services and negotiate contracts for internet access with private enterprise to ensure that innovative technology is available to serve the public's needs at the most fair and reasonable cost.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 4], the following definitions apply:

(1) "Agency" has the meaning provided for in 2-15-102.

(2) "Internet services provider" means a person or an entity that provides a service, AVAILABLE TO THE PUBLIC, that enables ~~users to access the internet~~ THE PERSON'S OR ENTITY'S CUSTOMERS TO ACCESS THE INTERNET, PURCHASE INTERNET SERVER OR FILE-HOSTING SERVICES, COLOCATE INTERNET EQUIPMENT, OR USE DATA TRANSMISSION OVER THE INTERNET FOR A FEE.

(3) "Political subdivision" has the meaning provided for in 2-9-101.

NEW SECTION. **Section 3. Government competition with ~~for-profit~~ PRIVATE internet services providers prohibited -- ~~exception~~ EXCEPTIONS.** (1) Except as provided in subsection (2)(a) OR (2)(B), an agency or political subdivision of the state may not directly or through another agency or political subdivision ~~engage in the sale, offer for sale, delivery, dispensing, or distribution of internet services to the general public, using any available technology, if those services are also offered by a for-profit~~ BE AN internet services provider.

(2) (a) An agency or political subdivision may act as an internet services provider if:

(i) no ~~for-profit~~ PRIVATE internet services provider is available within the jurisdiction served by the agency or political subdivision; OR

(ii) THE AGENCY OR POLITICAL SUBDIVISION PROVIDED SERVICES PRIOR TO JULY 1, 2001.

(B) AN AGENCY OR POLITICAL SUBDIVISION MAY ACT AS AN INTERNET SERVICES PROVIDER WHEN PROVIDING ADVANCED SERVICES THAT ARE NOT OTHERWISE AVAILABLE FROM A PRIVATE INTERNET SERVICES PROVIDER WITHIN THE JURISDICTION SERVED BY THE AGENCY OR POLITICAL SUBDIVISION.

~~(b)(c)~~ If a ~~for-profit~~ PRIVATE internet services provider elects to provide internet services in a jurisdiction where an agency or political subdivision is providing internet services, the ~~for-profit~~ PRIVATE internet services provider shall inform the agency or the political subdivision in writing at least 30 days in advance of offering internet services.

(3) UPON RECEIVING NOTICE PURSUANT TO SUBSECTION (2)(C), THE AGENCY OR POLITICAL SUBDIVISION SHALL NOTIFY ITS SUBSCRIBERS WITHIN 30 DAYS OF THE INTENT OF THE PRIVATE INTERNET SERVICES PROVIDER TO BEGIN PROVIDING INTERNET SERVICES AND MAY CHOOSE TO DISCONTINUE PROVIDING INTERNET SERVICES WITHIN 180 DAYS OF THE NOTICE.

(4) NOTHING IN THIS SECTION MAY BE CONSTRUED TO PROHIBIT AN AGENCY OR POLITICAL SUBDIVISION FROM:

(A) OFFERING ELECTRONIC GOVERNMENT SERVICES TO THE GENERAL PUBLIC; OR

(B) ACQUIRING ACCESS TO THE INTERNET FROM A PRIVATE INTERNET SERVICES PROVIDER IN ORDER TO OFFER

1 ELECTRONIC GOVERNMENT SERVICES TO THE GENERAL PUBLIC.

2

3 NEW SECTION. **Section 4. Alternatives to public internet services providers.** An agency or  
4 political subdivision is encouraged to publish its requirements for internet services and to use, to the  
5 maximum extent possible, ~~for-profit~~ PRIVATE internet services providers to deliver internet services to the  
6 public.

7

8 NEW SECTION. **Section 5. Codification instruction.** [Sections 1 through 4] are intended to be  
9 codified as an integral part of Title 2, and the provisions of Title 2 apply to [sections 1 through 4].

10

11 NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2001.

12

- END -